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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

WINDSOR AUCTIONS, INC., a Florida corporation, and JEWELRY AUCTIONS CORPORATION, a New Jersey corporation, and UNIVERSAL COLLECTIBLES, LLC, a Delaware Limited Liability Company,

Plaintiffs,

V.

EBAY INC., a Delaware corporation,

Defendant.

Case No. C 07 06454 RMW

**EBAy INC.'S ADMINISTRATIVE MOTION
TO FILE LIVE AUCTIONEERS
AGREEMENT UNDER SEAL PURSUANT TO
CIV. L.R. 79-5(B)**

Date: October 3, 2008

Time: 9:00 a.m.

Dept.: 6

Judge: Hon. Ronald M. Whyte

Amended Complaint Filed: July 24, 2008

Pursuant to Civil L.R. 79-5, defendant eBay Inc. ("eBay") hereby requests that the Court enter an Order sealing the form Live Auctioneers LLC agreement (the "Live Auctioneers Agreement"), referred to in paragraph 11 of Plaintiffs Amended Complaint ("FAC"). This request is based on this Administrative Motion, the Declaration of Adam Sand in Support of eBay Inc.' Motion to Dismiss Plaintiffs' Amended Complaint ("Sand Decl.") filed herewith, and the pleadings and papers on file in this action.

I. ARGUMENT

Documents privileged or protectable as a trade secret or otherwise entitled to protection under the law are appropriately sealed from public inspection by order of the Court. Civ. L.R. 79-5(a). California law defines a "trade secret" as "information . . . that derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Cal. Civ. Code § 3426.1(d) (internal punctuation and capitalization omitted).

Compelling reasons support the sealing of the Live Auctioneers Agreement. First the Live Auctioneers Agreement is protectable as a trade secret under California Law because it contains information that is kept secret by Live Auctioneers in order to preserve the economic value inherent in its description of the commercial relationship among parties to the agreement. *See* Cal. Civ. Code § 3426.1(d). Furthermore, the Agreement contains private commercial information that is of little, if any, public concern. The Live Auctioneers Agreement specifically details the rights and obligations of the parties with respect to their commercial relationship. The Live Auctioneers Agreement contains a confidentiality provision which designates the terms of the agreement as confidential and prohibits the disclosure of the subject matter contained therein. *See* Sand Decl. ¶ 5. Because the confidential and protected nature of the Live Auctioneers Agreement outweighs any interest in public access to the Live Auctioneers Agreement, the Live Auctioneers Agreement should be sealed by Order of the Court. *See generally Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (trial court has discretion to determine whether the presumption in favor of public access to court documents is overridden by particular facts of a

1 case).

2 **II. CONCLUSION**

3 For the foregoing reasons, eBay hereby requests that the Court enter an order designating
4 that the Live Auctioneers Agreement be filed under seal.

5 Dated: August 11, 2008

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